

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

No. C 05-0623 MHP

HAYA MIZRACHI,

Plaintiff(s),

vs.

DAVID SHIELD, et al.,

Defendant(s).

**ORDER DISMISSING
COMPLAINT**

The history of this case is best reviewed from the docket of the court. This shows that plaintiff's counsel failed to appear on two separate occasions for Case Management Conferences, failed to file any case management conference statements, and has failed to serve any defendants even though this case was filed on February 10, 2005. The only papers plaintiff has filed are motions for reconsideration of a dismissal that was entered when she failed to respond to the court's order to show cause noticing plaintiff that the complaint would be dismissed if she failed to appear.


The court has reviewed the motions for leave to file a motion for reconsideration and, even treating them as motions for reconsideration as if leave had been granted, they fall far short. Although one docket entry does have an erroneous date, the document itself, which is accessible to plaintiff's counsel with a mere click, contains the correct date. Another order was issued with a new date. Nonetheless, plaintiff's counsel did not appear on that date or otherwise respond, but followed up with another motion for leave to reconsider the dismissal. None of the reasons given by counsel in her moving papers is persuasive. The reasons reflect neglect and inattention by counsel.

1 The court has now learned that the California State Bar ordered counsel inactive and not
2 eligible to practice law as of June 16, 2006 and the State Bar records show that as of the date of the
3 instant order counsel is "not eligible to practice law". In the ordinary course, this district will be
4 sending a notice to counsel that the effect of this is to remove her from the roll of attorneys admitted
5 to practice before this court until such time as she is reinstated in good standing by the State Bar and
6 obtains reinstatement before this court.

7 The foregoing explains why granting a motion for reconsideration is futile. Therefore, the
8 complaint in this action shall remain DISMISSED for the reasons stated in the court's earlier order.
9 This dismissal is without prejudice since plaintiff should not suffer for the dereliction of her
10 attorney. Plaintiff's counsel shall notify her client, Haya Mizrachi, of this order and her inability to
11 represent Ms. Mizrachi by serving her client with a copy of this letter sent by certified or registered
12 mail return receipt requested on or before September 8, 2006, and counsel shall file the return
13 receipt with this court under the file number of this action.

14
15 IT IS SO ORDERED.

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17 Date: August 31, 2006


MARILYN HALL PATEL
Judge
United States District Court
Northern District of California

United States District Court
For the Northern District of California

ENDNOTES

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